* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Potition for Zoning Variance in which the Petitioner requests relief from Section 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 0 parking spaces in lieu of the minimum required 5, for a proposed antique business as more particularly described on Petitioner's Exhibit 1.

The Petitioner, Nancy Wilkey, appeared, testified and was represented by Jeffrey H. Scherr, Esquire. Also appearing on behalf of the Petition were Betty J. Ruano, David S. Thaler, Engineer, and Hilary Matzinger.

Testimony indicated that the subject property, known as 6072 Falls Road, consists of 0.147 acres more or less, split zoned B.L.-C.N.S. and B.L. and is improved with a two-story building which has existed on the property since the early 1900s. The Petitioner is desirous of establishing an antique business at this location; however, there is no available space on-site on which to provide parking. Nancy Wilkey testified that there are two parking spaces in front of the property and that additional parking is available on the street.

David Thaler testified on behalf of the Petitioner. He testified that he resides in the area and is extremely familiar with the subject property. Mr. Thaler testified that in his opinion, the fact that there are no packing spaces available on site would cause no parking problems. To support his argument, Mr. Thaler testified that an antique business is a type of use which does not generate much customer traffic. Testimony revealed that there may be only one or two customers browsing through the store at any one time.

Patrick Keller, Deputy Director of the Office of Planning, was subpoenced to testify at the subject hearing. Mr. Keller testified that he visited this property and determined that the only way to locate parking on the site would be to enter into an access agreement with the adjacent lacey's Produce business. However, this would necessitate razing an existing attached garage on that property which the Petitioners testified was not feasible. Mr. Keller testified that he would support the requested variance on condition that the relief granted would be limited to the subject antique business and would expire upon the termination of its use as such by the Petitioner.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome:

> 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

4/3992

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

- 2-

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this $13^{+/2}$ day of April, 1992 that the Petition for Zoning Variance from Section 409.6 of the Baltimore County Zoning Regulations (B.C.2.R.) to permit 0 parking spaces in lieu of the minimum required 5, for a proposed antique business in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

> 1) The Petitioner may apply for her use permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

> 2) The relief granted herein is limited to the Petitioner for so long as this property is used for an

SALL SALL

333

ATTACHMENT TO PETITION FOR ZONING VARIANCE 6072 FALLS ROAD

to the subject property (within 100 feet). As a practical matter, it is unlikely that there would ever be five cars visiting this store at a time. This is a soft use of this property, which is located in the middle of a commercial district, with a shopping center on one side, a produce store on the other, and a convenience store with its own parking across the street. This kind of an establishment would not add congestion to this area, and, in fact, may bring fewer cars into the area than any other commercial use. There are two unrestricted parking spaces on Falls Road directly in front of

333

December 17, 1991

ZONING DESCRIPTION

6072 FALLS ROAD

92-322-A

Beginning at a point on the west side of Falls Road (44' paying) at the distance of 50 feet south and opposite to the centerline of Lake Avenue; thence, running the following courses and distances:

- 1. South 05° 00'00" East 35.82 feet;
- 2. South 87°44'11" West 154.27 feet:
- North 05°00'00" West 37.00 feet;
- North 88° 10'00" East 154.33 feet to the point of beginning.

Recorded in the Land Records of Baltimore County, Maryland in Deed Liber 8687 folio 391.

Containing 5.618 square feet or 0.129 acres of land, more or less.

Also known as 6072 Falls Road and located in the Third Flection District



antique business. In the event the property ceases to be used for an antique business, then this variance relief shall expire and become null and void. This restriction may be modified only by public hearing before the Zoning Commissioner and/or Deputy Zoning Commissioner.

3) When applying for a use permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

for Baltimore County

CERTIFICATE OF POSTING DONING DEPARTMENT OF BALTIMORE COUNTY

Towns, Maryland	22 - 322 A
Brd Marianes	Date of Posting 3-12-72
I amon I Willer Si	<u> </u>
roperty: W.E. F. J. Lila Mired	5318 Ff The Pill Al
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ED FOR NEW HEARING TH	

The Zenting Commissioner of Baltimere County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the properly identified herein in Floom 106 of the County Office Building, located at 111 W. Cheespeele Avenue in Toweon, Meryland 21204 as follows: Lake Avenue 6072 Palls Road 3rd Election District 2nd Councilmenic Petitioner(s): Namey L. Williey, Ph.D. Hearing Date: Thureday, April 2, 1862 at 10:00 a.m.

Variance: to allow zero park-ing spaces (for a store selling ar-tique furniture) in fleu of the re-quired five spaces.

Location of

"DUPLICATE" CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in OWINGS MILLS TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on _ 12,1992

OWINGS MILLS TIMES.

D 65.64

Baltimore County Constrainent Zoning Commis asset Office of Planning and Zening

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

RECEIVED FOR FILING

(110) 887-4386

April 13, 1992

Jeffrey H. Scherr, Esquire 20 S. Charles Street, 6th Floor Baltimore, Maryland 21201

RE: PETITION FOR ZONING VARIANCE W/S Falls Road, 50' S of the c/l of Lake Avenue (6072 Falls Road) 3rd Election District - 2nd Councilmanic District Nancy L. Wilkey, Ph.D. - Petitioner Case No. 92-322-A

Dear Mr. Scherr:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours, Deputy Zoning Commissioner for Baltimore County

TMK:bjs

cc: People's Counsel

ORDER RECEIVED FOR FILING

Contract Purchaser/Lessee:

(Type or Print Name)

AVAILABLE FOR HEARING

ESTIMATED LENGTH OF HEARING -0/2HR

City and State Attorney for Petitioner: 5701 Cross Country Blad Jeffrey H. Scherr.
(Type or Print Name) 20/South charles Street, 6th Floor tract purchaser or representative to be contacted Baltimore, MD 21201

Petition for Variance to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.6, Required Number of Parking Spaces (for a store selling antique furniture), to allow zero parking spaces in lieu of

the required five spaces, at 6072 Falls Road. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) Five off-street parking spaces are required under Zoning Regulations (2.5 per 1,000 sq. ft. for

The only open area is in the rear of the property, the access to which is through an unimproved lane only 8 ft. wide, too narrow for

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Pelition. Legal Owner(s): Nancy L. Wilkey Ph.D.... Baltimore, MD 21209.... Name, address and phone number of legal owner, on-Jeffrey H. Scherr Name 20 S. Charles St., 6th. fl. Attorney's Telephone No.: (410) 752-6030

333

1,925 sq. ft., which includes an open front porch). It is impossible to comply as there is no space for off-street parking on this property. customer parking. The adjacent shopping center cannot lease us any Property is to be posted and advertised as prescribed by Zoning Regulations.

spaces, but usually has some vacant spaces close (see attachI, or we, agree to pay expenses of above Variance advertising, posting, etc., upon tiling of this ment)
petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Baltimore, MD 21201 (410) 752-6030

Variance: to allow zero park oue incky winner walks away

e drawing from all the

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive weeks, the first publication appearing on 312, 19

THE JEFFERSONIAN,

19 jejieset

LISH #333

Account: R-001-6150

COMMERCIAL VARIANCE 1072 Fails Pd

Baltimore County

Date 2/10/92

Zoning Commisioner

County Office Building 111 West Chesapeake Avenue

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oragen skinds from the Please Make Checks Payable To: Baltimore County

2725:92

PRICE PUBLIC HEARING FEES \$175.00 020 -ZONING VARIANCE CORRECTOR 10fal: \$175.00

LAST MAME OF OWNER: WILLER

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

March 27, 1992

(410) 887-3353

Jeffrey H. Scherr, Esquire 20 South Charles Street, 6th Flllr Baltimore, MD 21201

RE: Item No. 333, Case No. 92-322-A Petitioner: Nancy L. Wilkey Petition for Variance

Dear Mr. Scherr:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 2120+

(410) 887-3353

Your petition has been received and accepted for filing this 18th day of February, 1992.

Petitioner: Nancy L. Wilkey

Petitioner's Attorney: Jeffrey H. Scherr

DATE: March 12, 1992

4160-92

JW

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Baltimore County Government Office of Zoning Administration

and Development Management

Office of Planning & Zoning

Please be advised that $\frac{90.64}{}$ is due for advertising and posting of the above captioned

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or

111 West Chesapeake Avenue

DATE: 3/17/92

Nancy L. Woikey, PH.D.

CASE NUMBER: 92-322-A

Dear Petitioner(s):

cc: Jeffrey H. Scheen

6072 Falls Road

W/S Falls Road, 50' S of c/l Lake Avenue

3rd Election District - 2nd Councilmanic

your Order, immediate attention to this matter is suggested.

Petitioner(s): Nancy L. Wilkey, PH.D.

5701 Cross Country Bolevard Baltimore, Maryland 21209

Towson, MD 2120+

Arnold Jablon, Director Zoning Administration

and Development Management

Gary Kerns, Chief Community and Comprehensive Planning Division

Office of Planning and Zoning

Wilkey Property, Item No. 333

In reference to the applicant's request, staff offers the following comments:

A review of the plat accompanying the request indicates that sufficient area for parking exists to the rear of the existing structure. Unfortunately, there is insufficient area between the proposed store and south property line for an access drive.

Based upon a review of the information provided and analysis conducted, staff recommends that the applicant's request be denied. However, this office recommends that an agreement for shared access with an adjacent property owner be explored as a means to provide the required parking.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

GK:JL:prh ITEM333.ZAC/ZAC1

1. 13 (14 Phys.)

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

(410) 887-3353

MARCH 6, 1992

NOTICE OF HEARING

The Loning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE NUMBER: 92-322-A W/S Falls Road, 50' S of c/l Lake Avenue 6072 Falls Road 3rd Election District - 2nd Councilmanic Petitioner(s): Nancy L. Wilkey, PH.D. HEARING: THURSDAY, APRIL 2, 1992 at 10:00 a.m.

Variance to allow zero parking spaces (for a store selling antique furniture) in lieu of the required five spaces.

Zoning Commissioner o Baltimore County

> cc: Nancy L. Wilkey, PH.D. Jeffrey H. Scherr

> > Baltimore County Government Fire Department

700 East Joppa Road Suite 901 Towson, MD 21204-5500

(301) 887-4500

2962-92

MARCH 3, 1992

Arnold Jablon Director

Zoning Administration and Development Management Baltimore County Office Building Towson, MD 21204

RE: Property Owner: NANCY L. WILKEY, FH.D.

#6072 FALLS ROAD Location:

Item No.: 333 Zoning Agenda: FEBRUARY 3, 1992

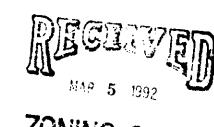
Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

Noted and Fire Prevention Bureau Special Inspection Division

JP/KEK



ZONING OFFICE

Printed on Recycled Paper

Printed on Recycled Paper

BALTIMORE COUNTY
ECONOMIC DEVELOPMENT COMMISSION
Memorandum

315192

Julie Winiarski
Office of Zoning Administration and
Development Management

A. J. Haley, Deputy Director

Economic Development Commission

March 3, 1992

Zoning Advisory Comments for Meeting of March 3, 1992

This office has no comment for items 328, 329, 330, 331, 332, 333, and 334.

c: Ken Nohe

RECIVED MAR & 1992

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: March 16, 1992 Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting for March 3, 1992

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 117 (Case No. 92-108-X), 329, 330, 331, 333 and

For Item 316, the previous minor subdivision comments still apply.

For Item 298 (Case No. 92-296-XA), and Item 332, the sites must be submitted through the new subdivision process for review and comments.

For Item 328, the site must be submitted through the minor subdivision process for review and comments.

ROBERT W. BOWLING, P.E., Chief Developers Engineering Division

RWB:

MAR 17 1992

ZONING OFFICE

KRAMON & GRAHAM, P.A. BEL AIR OFFICE:
THE EMMORTON PROFESSIONAL BUILDING
2107 LAUREL BUSH ROAD ANDREW JAY GRAHAM JAMES M. KRAMON**
LEE H. OGBURN SUN LIFE BUILDING CHARLES CENTER BEL AIR, MARYLAND 21015 LEE H. OGBURN

JEFFREY H. SCHERR

NANCY E. GREGOR'

JAMES P. ULWICK'

PHILIP M. ANDREWS

GERTRUDE C. BARTEL

MARILYN HOPE FISHER (410) 515-0040 (410) 569-0299 20 South CHARLES STREET BALTIMORE, MARYLAND 21201 FACSIMILE (410) 569-0298 (410) 752-6030 FACSIMILE MAX HIGGINS LAUTEN KATHLEEN A. BIRRANE KEVIN F. ARTHUR (410) 539:1269 OF COUNSEL ARON U. RASHAS SETH M. ROTENBERG FREDERICK STEINMANN * ALSO ADMITTED IN N* ALSO ADMITTED IN DC
ALSO ADMITTED IN NJ
O ALSO ADMITTED IN CA March 26, 1992 Arnold Jablon, Esquire Director Office of Zoning Administration Office of Planning and Zoning 111 West Chesapeake Avenue Towson, Maryland 21204 Re: 6072 Falls Road Case No. 92-322-A Dear Arnold: Thank you very much for putting this hearing in at 3:00 p.m. in [m. 118] on April 2, 1992 to accommodate all schedules. I very much appreciate your help in this matter. Sincerely, Jeffrey HU Scherr cc: Nancy L. Wilkey, Ph.D.
Betty J. Ruano, Ph.D.
David S. Thaler, P.E., L.S.

LAW OFFICES

-12/17 7Z

RE: PETITION FOR VARIANCE w/s FALLS ROAD, 50' S of BEFORE THE c/l Lake Avenue * ZONING COMMISSIONER 6072 Falls Road 3rd Election District 2nd Councilmanic District BALTIMORE COUNTY NANCY L. WILKEY, PH.D., Petitioner * Case No. 92-322-A * * * * * * * * * * * * * * **SUBPOENA** TO: Pat Keller Deputy Director
Office of Planning and Zoning Room 406 County Courts Building 401 Bosley Ave. Towson, Maryland 21204 You are hereby commanded to personally appear at the Public Hearing in Room 106 of the County Office Building, 111 W. Chesapeake Ave., Towson, Maryland 21204, on Thursday, April 2, 1992, at 3:00 p.m. Subpoena requested by Petitioner, and any questions should be referred to Jeffrey H. Scherr, Esquire, Kramon & Graham, P.A., 20 South Charles Street, Baltimore, Maryland 21201, (410) 752-6030. Jeffrey H. Scherr, Attorney for Petitioner This subpoena will be served personally by Hilary S. Matzinger, Paralegal, Kramon & Graham, P.A., 20 South Charles Street, Baltimore, Maryland 21201. This subpoena must be served in accordance with Rule IV(c) of the Zoning Commissioner's Rules, Baltimore County Zoning Regulations. Lawrence E. Schmidt Date Issued: 3/31/96 Zoning Commissioner of Baltimore County

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

ADDRESS

NAME

ADDRESS

LAUID THALER

LO Cate Mance Ct.

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330 Alchester Colomby

LO Colomby Blud,

20 S. Chamles St 21201

PHONE, EVERGREEN 522-Y-2

J. FRED. PAHL & SON

MOUNT WASHINGTON AND BARE HILLS NURSERIES

GROWERS OF EVERGREENS, TREES, SHRUBS, PLANTS, ETC.

6072 FALLS ROAD

Pet #9



